

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
FM Table of Allotments,)	MB Docket No. 03-196
FM Broadcast Stations.)	RM-10626
(Mt. Vernon and Okawville, Illinois))	
)	
Reclassification of License)	
of Station KEZK-FM, St. Louis, Missouri)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: April 14, 2004

Released: April 19, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rule Making* (“Notice”)¹ issued at the request of Benjamin Stratemeyer (“Petitioner”), licensee of Station WIBV(FM), Mount Vernon, Illinois, seeking to amend the FM Table of Allotments by reallocating Channel 271B1 from Mount Vernon to Okawville, Illinois, as the community’s first local aural transmission service, and modifying the license of Station WIBV(FM) to reflect the change of community. To accommodate the proposal consistent with the minimum distance separation requirements of the Commission’s rules,² Petitioner’s proposal also requires the reclassification of Station KEZK-FM, St. Louis, Missouri, Channel 273C to specify operation on Channel 273C0. Petitioner filed comments in support of its proposal, and pledging to file the necessary applications required to effectuate the change of community. We received no other comments.

2. As stated in the *Notice*, Station KEZK-FM operates on Channel 273C with an effective radiated power (“ERP”) of 100 kilowatts (“kW”) at 313 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of 451 meters HAAT. The distance between the required site for requested Channel 271B1 at Okawville and Station KEZK’s licensed site is 88 kilometers. A minimum distance separation of 105 kilometers is required in this instance. To eliminate the short-spacing, Petitioner proposed to reclassify Station KEZK-FM to Channel 273C0. To initiate this process, we issued an *Order to Show Cause* to Station KEZK-FM’s licensee, Infinity Radio Subsidiary Operations, Inc.(“Infinity”), affording it 30 days to express in writing an intention to seek authority to upgrade its technical facilities to preserve Class C status, or to otherwise challenge the proposed action, as required by Section 73.3573 Note 4 of the Commission’s Rules.³ Infinity filed no response, and therefore, in accordance with the Commission’s procedures, Station KEZK-FM is being reclassified to

¹ *Mount Vernon and Okawville, Illinois*, 18 FCC Rcd 18492 (2003).

² See Section 73.207(b)(1).

³ See *Order to Show Cause, Reclassification of License of Station KEZK-FM, St. Louis, Missouri*, 18 FCC Rcd 107 (2003).

specify operation on Channel 273C0 instead of Channel 273C at St. Louis, Missouri.⁴

3. The proposed reallocation of Station WIBV was filed pursuant to the provisions of Section 1.420(i) of the Commission's rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.⁵ In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based on the FM Allotment priorities.⁶

4. Based upon the information presented in this proceeding, we believe the public interest will be served by reallocating Channel 271B1 from Mount Vernon to Okawville, Illinois, since it would result in a preferential arrangement of allotments. Okawville, an incorporated community with a 2000 U.S. Census population of 1,355 persons, is a community for allotment purposes. Okawville would receive its first local transmission service, fulfilling allotment priority (3) of the Commission's allotment priorities and Mount Vernon will retain local service from Stations WMIX-FM and WMIX(AM) and noncommercial educational Stations WAPO(FM) and WBMV(FM), which will fulfill priority (4), other public service. This proposal is located outside any Urbanized Area it will not place a 70 dBu signal over any Urbanized Area.

5. Channel 271B1 can be allotted at Petitioner's requested site 19.0 kilometers (11.8 miles) southeast of the community.⁷ Operation on Channel 271B1 from the restricted site specified also will comply with the requirements of Section 73.315 of the Commission's Rules to provide 70 dBu coverage over the entire community. We have determined that Channel 271B1 is the only Class B1 channel available for allotment at Okawville, and that the reclassification of Station KEZK to specify operation on Channel 273C0 at St. Louis, Missouri will eliminate any short spacing to requested Channel 271B1 at Okawville, Illinois.⁸

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.61, 0.204(b) and 0.283 of the Commission's rules, IT IS ORDERED That effective June 4, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's rules, IS AMENDED, with respect to the communities listed below, as follows:

⁴ See *Second Report and Order*, MM Docket No. 98-93 15 FCC Rcd 21649 (2000) ("1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules"); see also note 2 to Section 1.420(g) and note 4 to Section 73.3573 of the Commission's Rules.

⁵ See *Modification of FM and TV Authorizations to Specify a new Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

⁶ The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to given to priorities (2) and (3)], See *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1988).

⁷ Coordinates for Channel 271B1 at Okawville are 38-21-56 NL and 89-21-2 WL.

⁸ As indicated above, the minimum distance separation requirements are met based on the reclassification of Station KEZK-FM to specify operation on Channel 273C0 rather than Channel 273C, at St. Louis, Missouri at its licensed coordinates 38-34-24 NL and 90-19-30 WL. The site restriction at Okawville is necessary to protect Station WGEL(FM), Channel 269A, Greenville, Illinois, at coordinates 38-38-11 NL and 89-20-56 WL.

<u>City</u>	<u>Channel No.</u>
Mount Vernon, Illinois	231B1
Okawville, Illinois	271B1
St. Louis, Missouri	222C, 229C1, 242C1, 251C1, 273C0, 277C1, 299C

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Benjamin Stratemeyer, for Station WIBV, Mount Vernon, Illinois, IS MODIFIED to specify operation at Okawville, Illinois, in lieu of Mount Vernon, Illinois, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee of Station WMXV shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted by Station KTCL in accordance with Section 73.1620 of the Rules.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules unless the proposed facilities are categorically excluded from environmental processing.

8. Pursuant to Sections 1.1104(1)(k) and (2)(k) of the Commission's rules, any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change of community. As a result of this proceeding, Benjamin Stratemeyer, licensee of Station WIBV(FM), Mount Vernon, Illinois, is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license for Station WIBV, from Mount Vernon, Illinois to Okawville, Illinois, at the time its Form 301 application is submitted.

9. Additionally, a copy of this *Order* shall be served as follows:

Clifford M. Harrington, Esq.	Infinity Radio Subsidiary Operations, Inc.
Dawn M. Scarrino, Esq.	2000 K Street, N.W.
Collette M. Capretz, Esq.	Suite 725
Shaw Pittman, LLP	Washington, D.C. 20006
2300 N Street, N.W.	
Washington, DC 20037-1128	
(Counsel to Petitioner)	

10. For further information concerning this proceeding, contact Victoria M. McCauley (202) 418-2180.

11. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau